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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,977	06/20/2003	Ranjan K. Sen	30835/303494	7153
45373 7590 06/07/2007 MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT) 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606			EXAMINER SEYE, ABDOU K	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 06/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/600,977

Applicant(s)

SEN, RANJAN K.

Examiner

Abdou Karim Seye

Art Unit

2194

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-34.
Claim(s) withdrawn from consideration: 1-34.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

As per claims 27 and 30-34 : a new limitation is recited: "Tangible". Examiner was unable to locate any description of the term tangible. To overcome the specification objection applicant is required to cancel the new matter in the reply to this advisory Action, unless the applicant provides the examiner where this limitation is taught.

As per claims 27, 30-34, they are not limited to statutory embodiments. In view of Applicant's disclosure, specification (see page 5, lines 4-21), the medium is not limited to physical articles or objects embodiments, instead being defined as including both physical articles or objects embodiments (e.g., CDs and DVDs) and non physical embodiments (e.g., data signals embodied in a carrier wave). The non physical embodiments are a form of energy. Energy does not fall into a statutory category of invention and therefore the claim is not statutory.

To overcome this type of 101 rejection the claim need to be amended to include only the physical computer media and not a transmission media or other non physical or non-functional media (i.e. computer storage media, see specification, page 5, line 4-5).

Claims 28-29 are also rejected for failing to remedy the deficiencies of the above rejected non statutory claim 27.

Applicant may choose to amend the claim to say "A computer readable storage medium" instead of "A tangible computer readable medium" in order to make these claims statutory, since applicant defines the meaning of tangible in his argument (section 1, page 9) as something that can be carried or moved. This could mean data signals embodied in a carrier wave.

Appropriate correction is required

As per claim 1: Applicant argues that "there is no disclosure of making a determination whether a thread is a user thread or a kernel thread". The examiner disagrees since, the "or" operator on the claim indicates that, thread determination could be the identification of user threads or kernel threads. Shiomi's reference discloses in (FIG. 1) an identifier providing unit 13c included in the kernel unit 13 for providing ID tag to applications. Applications in the storing unit are identified before there are executed by the kernel unit (paragraph 82-95). Therefore Shiomi's reference does teach the determination of kernel process within the kernel unit. These elements of shiomi reference meet the claimed limitation of the claim. Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

As per claim 4 : applicant argues that "Shiomi does not mention of storing a tag in the first word". Examiner disagrees since, (FIG 27) clearly shows a table include application ID tag as a first word of the row. This element of shiomi reference meet the claimed limitation of the claim Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

As per claim 7 : Applicant argues "shiomi does not generating a tag value to identify kernel resource; saving the tag value to a first word of the tag; and saving a user process identifier". The examiner disagree since, FIG. 12 clearly disclose resource name (a.txt) associated with an application/process id (1) in table 902. This element of shiomi reference meet the claimed limitation of the claim Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

As per claim 8, see response to applicant's argument above.

As per claim 14, applicant argues that Shiomi does not make a determination between pure kernel processes and user processes". In response to applicant's argument that the references fail to show this feature of applicant's invention, it is noted that the feature upon which applicant relies (i.e., making a determination between pure kernel processes and user processes) is not recited in the rejected claim(s). Applicant uses the or operator to only disclose, "making a determination whether a process is a user process or a kernel process". Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As per claim 25 : applicant argues that " shiomi reference does not disclose the claimed element of identifying an amount of kernel resources allocated to a process " . The examiner disagree since, the table (FIG. 29) shows an area size of available resource; and FIG. 30 shows the determination block whether free area size is acquired successfully within a limited resource environment. Therefore if resource usage exceeds fixed threshold limit, a garbage collector unit will take action (Shiomi; paragraph 201-212). These elements of Shiomi's reference meet the claimed limitation of the claim. Examiner has cited particular columns and line numbers and/or figures in the references as applied to the claims for the convenience of the applicant. Applicant is reminded that rejections are based on references as a whole and not just the cited passages. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the cited art or disclosed by the examiner.

As for remaining claims, see the examiner arguments above .